

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

DAWN C. ANDERSON, <i>et al.</i> ,)	
<i>Plaintiffs,</i>)	
)	
vs.)	1:14-cv-1832-JMS-DKL
)	
WAL-MART ASSOCIATES, INC., <i>et al.</i> ,)	
<i>Defendants.</i>)	

ORDER TO FILE AMENDED COMPLAINT

On November 10, 2014, Plaintiffs Dawn C. Anderson and Scott Anderson filed a Complaint against the Defendants. [[Filing No. 1.](#)] The Plaintiffs allege that this Court can exercise diversity jurisdiction over their claims, [[Filing No. 1.](#)], but the Court cannot confirm this because of deficiencies in the jurisdictional allegations.

The Court is not being hyper-technical: Counsel has a professional obligation to analyze subject-matter jurisdiction, [Heinen v. Northrop Grumman Corp.](#), 671 F.3d 669 (7th Cir. 2012), and a federal court always has a responsibility to ensure that it has jurisdiction, [Hukic v. Aurora Loan Servs.](#), 588 F.3d 420, 427 (7th Cir. 2009).

First, the Plaintiffs alleges that four of the defendants—Wal-Mart Associates, Inc., Wal-Mart Stores East, Inc., Wal-Mart Stores, Inc., and Wal-Mart Realty Company—are Arkansas corporations doing business in Indiana. [[Filing No. 1 at 2.](#)] But a corporation is deemed a citizen of any state where it is incorporated and a citizen of the state where it has its principal place of business. [28 U.S.C. § 1332\(c\)\(1\)](#); *see also Smoot v. Mazda Motors of Am., Inc.*, 469 F.3d 675, 676 (7th Cir. 2006) (a corporation has two places of citizenship: where it is incorporated and where it has its principal place of business). Because the Plaintiffs do not allege the principal place of

business for any of these defendants, they have not properly alleged the citizenship of these defendants.

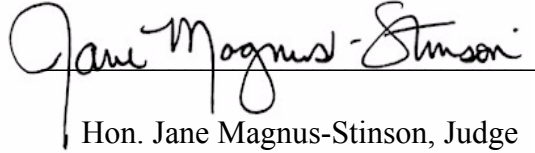
Second, the Plaintiffs allege that Defendant Wal-Mart Stores East, L.P., “is an Arkansas corporation registered and doing business in the State of Indiana.” [\[Filing No. 1 at 2.\]](#) Typically, “L.P.” represents limited partnership, which is a type of unincorporated association. The citizenship of an unincorporated association is “the citizenship of all the limited partners, as well as of the general partner.” [Hart v. Terminex Int’l, 336 F.3d 541, 542 \(7th Cir. 2003\)](#). “[T]he citizenship of unincorporated associations must be traced through however many layers of partners or members there may be.” [Id. at 543](#). Asserting that all partners are citizens of “X” or that no partners are citizens of “X” is insufficient. *See Peters v. Astrazeneca LP, 224 Fed. Appx. 503, 505 (7th Cir. 2007)* (noting the insufficiency of a limited partnership asserting that none of its partners were citizens destroying diversity “rather than furnishing the citizenship of all of its partners so that [the court] could determine its citizenship”).

Third, the Plaintiffs allege that Defendant Wal-Mart Real Estate Business Trust “is an Arkansas corporation registered and doing business in the State of Indiana.” [\[Filing No. 1 at 2.\]](#) “Businesses organized as trusts don’t have their own citizenship; they take the citizenship of the trustee (or citizenships, if there are multiple trustees).” [White Pearl Inversiones S.A. \(Uruguay\) v. Cemusa, Inc., 647 F.3d 684, 686 \(7th Cir. 2011\)](#). The Plaintiffs have not alleged the citizenship of the trustees of this defendant; thus, their jurisdictional allegations are incomplete.

Fourth, in addition to diversity of citizenship, the amount in controversy must exceed “\$75,000, exclusive of interest and costs” for the Court to exercise diversity jurisdiction. [28 U.S.C. § 1332](#). The Plaintiffs allege that the amount in controversy in this action “exceeds \$75,000[.]” [\[Filing No. 1 at 1\]](#), but omit “exclusive of interest and costs.”

For these reasons, the Court **ORDERS** the Plaintiffs to conduct whatever investigation is necessary and file an Amended Complaint by **November 24, 2014**, properly setting forth a basis for this Court's jurisdiction. Defendants need not answer or otherwise respond to Plaintiffs' initial Complaint. [[Filing No. 1.](#)]

November 12, 2014

A handwritten signature in black ink that reads "Jane Magnus-Stinson". The signature is written in a cursive, flowing style. The first name "Jane" is written with a large, open "J". The last name "Stinson" is written with a large, open "S". The signature is written over a horizontal line.

Hon. Jane Magnus-Stinson, Judge
United States District Court
Southern District of Indiana

Distribution via ECF only:

Darron S. Stewart
STEWART & STEWART
darron@getstewart.com

David W. Stewart
STEWART & STEWART
dave@getstewart.com